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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

LARREN HENDERSON,

Plaintiff,

v.

COMENITY BANK, LLC, AVANT, LLC,
EXPERIAN INFORMATION SOLUTIONS,
INC, EQUIFAX INFORMATION SERVICES,
LLC, and TRANS UNION LLC,

Defendants.

Case No.: 2:20 -cv-459-JAD-EJY

**STIPULATION AND ORDER TO
SET ASIDE DEFAULT**

[Fed. R. Civ. P. 55(c)]

ECF Nos. 28, 34

Plaintiff LARREN HENDERSON (“Plaintiff”) and Defendant COMENITY BANK, *erroneously sued as* “COMENITY BANK, LLC” (“Defendant”) (Plaintiff and Defendant are hereinafter collectively referred to as, the “Parties”), through their respective counsel, hereby stipulate and jointly request, pursuant to Rule 55(c) of the *Federal Rules of Civil Procedure*, that the default which was entered against Defendant “Comenity Bank, LLC” on April 27, 2020 be set aside, and that Defendant Comenity Bank be allowed to file an Answer to Plaintiff’s Complaint on or before May 18, 2020. As set forth as follows, good cause exists for this request:

1. Plaintiff commenced this action by filing a Complaint against “Comenity Bank, LLC” on March 5, 2020. (ECF No. 1.)

2. “Comenity Bank, LLC” is not an existing entity. The correct entity name for Defendant is “Comenity Bank”.

3. On March 10, 2020, the Summons and Complaint were allegedly served on CT Corporation System (CT Corp.), as to “Comenity Bank, LLC”. CT Corp. is Defendant Comenity Bank’s agent for service of process for Nevada lawsuits. (ECF No. 5.)

4. Defendant is informed and believes it never received the Summons and Complaint from CT Corp. and was therefore unaware of this pending lawsuit.

5. Furthermore, the alleged service of the Summons and Complaint took place in the midst of the COVID-19 Pandemic, near the start of business lock down, and in or about that time frame, Defendant had shut down its physical offices and most of its business operations at those facilities.

6. On April 27, 2020, on request by Plaintiff, the Clerk entered default against Defendant “Comenity Bank, LLC” under Rule 55(a) of the Federal Rules of Civil Procedure. (ECF No. 27.)

7. Defendant was first made aware of this action *after* a Default by Clerk was entered on April 27, 2020.

8. Immediately upon being retained by Defendant, Defense counsel contacted Plaintiff’s counsel to inform them that they had sued and allegedly served, a non-existent entity. Defense counsel also requested that Plaintiff’s counsel stipulate to withdraw the default and allow the correct Comenity Defendant to respond to the Complaint. Plaintiff’s counsel granted Defendant’s request for a stipulation, and the Parties have agreed that if this Stipulation is approved by the Court, Defendant will file an Answer to the Complaint on or before May 18, 2020.

9. Plaintiff’s Complaint alleges claims under the Fair Credit Reporting Act. Defendant reasonably contends that it has meritorious defenses to Plaintiff’s claims and alleged

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1 damages, but has not had an opportunity to fully investigate the depth of the evidence and facts in
2 support of all of the claims and defenses.

3 10. The Parties agree that the requested relief is sought in good faith, and will not cause
4 any prejudice to them.

5
6 11. The Parties therefore respectfully request that the default which was entered against
7 incorrect named defendant, "Comenity Bank, LLC" on April 27, 2020, be set aside and that
8 Defendant Comenity Bank be allowed to file a response to Plaintiff's Complaint on or before May
9 18, 2020.

10 12. A Proposed Order regarding this request is submitted herewith for the Court's
11 consideration.

12
13 DATED this 4th day of May, 2020.

ALVERSON TAYLOR & SANDERS

14
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25 DATED this 4th day of May, 2020.

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1 The Court has reviewed the Parties' Stipulation to Set Aside Default of Defendant
2 COMENITY BANK, *erroneously sued and served as* COMENITY BANK, LLC ("Defendant").

3 Good cause appearing, the Court grants the Parties' Stipulation to Set Aside Default as to
4 Defendant pursuant to FRCP 55(c).

5 IT IS HEREBY ORDERED that the default [ECF 27] by the clerk in this matter be set aside.
6
7 IT IS FURTHER ORDERED that the Motion for Default Judgment against Comenity Bank, LLC
8 [ECF No. 28] is **DENIED** as moot.

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11 U.S. District Judge Jennifer A. Dorsey
12 Dated: May 4, 2020

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